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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/606,052 | 06/28/2000 | Roy Mauger | 476-1929 | 5678 |

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EXAMINER

NGUYEN, BRIAN D

| ART UNIT | PAPER NUMBER |
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2661

DATE MAILED: 04/13/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/606,052

Applicant(s)

MAUGER ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 1/26/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 8-9, 11-17, 20, and 22-30 are objected to because of the following informalities:

Based on the preliminary amendment filed on 6/28/00, claim 15 is dependent on claim 14; claim 16 is dependent on claim 15; claim 17 is dependent on claim 16; claim 20 is dependent on claim 19.

Claim 8, line 1, "the labels" seems to refer back to "labels" in line 2 of claim 2. If this is true, it is suggested to insert - - the - - before "labels".

Claim 11, line 2, delete "or" and substitute - - of - -.

Claim 14, line 4, delete "my" and substitute - - by - -.

Claim 16, line 3, delete "second" and substitute - - second-stage - -.

Claim 22, line 2, delete "or" and substitute - - of - -.

Claim 28, line 1, it is suggested to insert - - defining a sequence of tunnels - - after "labels", see corresponding claims 8 and 9.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibson (6,678,264).

Regarding claim 1, Gibson a method of routing an information packet over a label switched path between first and second end stations in a virtual private network defined over a network arrangement comprising a hierarchical arrangement of levels of routers, the method comprising attaching to the information packet at a network edge a sequence of labels indicative of a corresponding concatenated sequence of label switched path sections within the virtual private network, each the path section extending between a pair of the routers (see abstract and figure 1).

Regarding claim 2, Gibson discloses the network has hierarchy of first (10, 11 of figure 1), second (12, 14), third levels of routers (13).

Regarding claims 3-5, Gibson discloses the sequence of labels comprises first, second, third and fourth labels and quality of service (see labels between end points 10 and 11 and QoS in the abstract).

Regarding claims 6-9, Gibson discloses dynamic label switched paths and a new session is multiplexed onto an existing dynamic multiplexed label switched path only if resource

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constraints of the first-stage and second-stage Layer 1 constraint-based routed label switched paths are satisfied (see col. 4, lines 12-13; col. 6, lines 58-63; col. 17, lines 45-67).

Regarding claims 10-20 claims 10-20 are method or network claims that have substantially the same limitations as described in method claims 1-9. Therefore, they are subject to the same rejection.

Regarding claims 21-30, claims 21-30 are method claims that have substantially the same limitations as described in method claims 1-9 and further including selecting a series of the quality of service capable tunnels, wherein the tunnel selection is made by offering a plurality of candidate central stages to the destination edge and allowing the destination edge to select a complete path across the network (see col. 11, lines 31-60).

Response to Arguments

4. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

5. The indicated allowability of claims 3-9, 12-13, 17-20, and 23-29 are withdrawn in view of the newly discovered reference(s) to Gibson (6,678,264).

Conclusion

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Brian Nguyen
4/6/04